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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,160	02/09/2004	Fredrica V. Coates	50014-056	5449

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/773,160		COATES, FREDRICA V.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Karin M. Reichle		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7,8 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7,8 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4-7-06 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

#### *Drawings*

1. The drawings were received on 4-7-06. These drawings are not approved by the Examiner. For example, first, two different sets of Figures have both been labeled as the replacement sheets. Second, some of the proposed corrections are inaccurate, e.g. in Figure 4, the proposed rightmost 64A should not be added.

2. The drawings are still objected to because in Figure 4A, 62C should be 64 C and in Figure 4, the solid line inside the dashed line indicating strap 66A should be deleted. In Figure 5A, 104 should be deleted. In Figure 8, 108 should be 118. In Figure 9, the lower 42 should have a dashed not solid line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Description*

3. The disclosure is objected to because of the following informalities:. In the amendment to the paragraph at page 14, line 8, line 6 thereof, "162" should be --163--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

4. Claims 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Are the releasable fastener in claim 8 and the releasable fasteners in claim 17 one and the same, i.e. how many fasteners at a minimum are being required?

### *Claim Language Interpretation*

5. The terminology "fluid-resistant" will be interpreted as resistant to fluid and "resistant" is interpreted as "giving or capable of resistance", i.e. its dictionary definition. Therefore, absent claiming specific dimensions of resistance to fluid, the terminology "fluid-resistant" will be considered relative. Due to the lack of clarity discussed supra, claim 17 is interpreted to further define the fastener of claim 8 as having cooperable portions respectively located on the sling and anchor layers.

***Claim Rejections - 35 USC § 102/103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-8 and 17-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bernard '983.

See Figures 7-9, col. 1, line 55-col. 2, line 6, col. 2, lines 14-31 and col. 3, lines 23-43, i.e. the outer layer is the outer layer of 15a, the anchor layer is the inner layer of 15a, the stitching is 17, the sling layer is 53 which includes four sides and is directly detachably coupled to the anchor layer but not directly detachably coupled to the outer layer, i.e. only indirectly so coupled, by a releasable fastener which is a snap fastener of two portions 51, 52 located respectively on the anchor layer and sling layer. The sling layer extends from the anchor layer on the inner side of the undergarment when the undergarment is worn to form a pocket facing inwardly away from the anchor layer. The sling layer is displaced inwardly from corresponding sides toward the center of the anchor layer and inwardly from the stitches between the anchor layer and the outer layer at, e.g., 7b, 7c, 8b, and 8c. It is noted that the entire periphery/all portions of all four sides of the sling layer is/are not required to be so inwardly displaced from the entire periphery of the anchor layer. However also note the position of 31 in Figure 3 and the position of 51 and 52 in Figures 7-9 with regard to stitching 17. The fastener 51 on the anchor

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layer is located between but only adjacent opposite terminal ends of the sling layer, see Figures 7-9. The outer layer is disclosed as a fabric sheet made of any fabric suitable for baby garments such as rayon. Since at the very least all sheet materials provide some resistance to fluids, absent claiming of specific water resistance, such outer layer is considered "fluid-resistant". The sling layer is also claimed as being "fluid resistant". While the pocket of the embodiment of Figures 1-6 is disclosed as made of water repellant or water proof material and having elements 16, 27, 25, 25a and the embodiment of Figures 7-9 is disclosed as also having a pocket but one which is detachable and includes elements 16a, 27a, 25c, 25b, the '983 does not explicitly disclose whether the pocket of Figures 7-9 is also water repellant or water impermeable. Therefore, it is the Examiner's first position that '983 includes a "fluid resistant" sling layer either because the pocket is of some sheet material and since all sheet materials provide some resistance to fluids, absent claiming of specific water resistance, such sheet material is considered "fluid-resistant", or because the pocket is of water repellant or water impermeable material, i.e. "fluid resistant". However, even if not already "fluid resistant" for such reasons, it is the Examiner's second position that to employ a water repellant or water impermeable material as taught by '983 for the pocket of the first embodiment of Figures 1-6 also for the pocket of the embodiment of Figures 7-9 would have been obvious to one of ordinary skill in the art in view of the recognition that such would provide the pocket of the second embodiment with the same the fluid resistant capabilities and the desire of '983 to provide a garment in the second embodiment similar to that of the first embodiment but with a detachable pocket.

***Response to Arguments***

8. Applicant's remarks have been carefully considered but are either deemed moot in that the issue/rejection addressed has not been reraised or deemed not persuasive for the reasons set forth supra.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claim 7 and the addition of new claims 17-19.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
July 16, 2006